

**REMARKS**

Reconsideration and allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Upon entry of this Amendment, claims 1-4 and 6-22 are pending in the application. Claims 1, 6, 7, 13, and 18 have been amended, claims 5 and 15-17 have been cancelled without prejudice or disclaimer, and claims 21-22 have been added.

The disclosure is objected to because of a typographical error in paragraph 20. Paragraph 20 has been amended for clarity purposes in order to overcome this objection. Withdrawal of the objection to the disclosure is respectfully requested.

Claim 1-4, 8-12, and 18-20 are rejected under 35 U.S.C. §102(b) by Kirsten, U.S. Patent No. 1,866,855. Applicant respectfully requests the Examiner to reconsider this rejection based on the amendment to claims 1 and 18 and the following distinguishing comments.

Claim 1 is directed to a die assembly that now includes a pressure cylinder that is structured to move the adjustable post between the first and second cutting positions and structured to lock the adjustable post from moving from the desired position during cutting.

Kirsten does not disclose the die assembly as recited in claim 1. As best shown in Fig. 3 of Kirsten, Kirsten discloses a die assembly having a shear knife 12 that is movable by adjusting a plurality of adjusting screws 15. Kirsten does not disclose that the first force applying device is a pressure cylinder that is structured to move the adjustable post between first and second cutting positions and structured to lock the adjustable post from moving from the desired position during cutting, as recited in claim 1. Also, the die assembly set forth in claim 1 provides tremendous efficiencies over the device of Kirsten since a single mechanism, a pressure cylinder, can provide movement to the adjustable post, then lock the post into the desired cutting position. Also, none of the prior art references, either singularly or in combination, disclose or suggest an assembly that provides for such efficiencies by using a single mechanism to both move and lock an adjustable post that is stationary during cutting. Thus, withdrawal of the rejection of claim 1 is respectfully requested.

Claims 2-4 and 8-12 are allowable by virtue of their dependence on claim 1 and additionally allowable for their recitation of additional patentable subject matter.

Claim 18 should be allowable for at least the reasons noted above with respect to claim 1 since it now includes a limitation similar to that added to claim 1. Accordingly, withdrawal of the rejection of claim 18 is respectfully requested.

Claims 19 and 20 are allowable by virtue of their dependence on claim 18 and additionally allowable for their recitation of additional patentable subject matter.

Claims 5, 6 and 7 are rejected under 35 U.S.C. §103(a) over the combination of Kirsten in view of Wallis, U.S. Patent No. 4,774,865. This rejection is respectfully traversed.

The Office Action relies on Wallis to disclose a pressure cylinder containing nitrogen. However, this does not make up for the deficiencies noted above with respect to Kirsten. That is, Wallis discloses a cylinder assembly 16 for moving an upward die assembly 10 with respect to a lower die assembly 11 for performing a stamping operation. [The cylinder assembly 16 is not structured for moving a post linearly between first and second cutting positions and securing the post from moving from a desired position during cutting.] Same argument

Claim 1, on which claim 5 depends, now recites that the first force applying device is a pressure cylinder that is structured to move the adjustable post between the first and second cutting positions and structured to lock the adjustable post from moving from the desired position during cutting. None of the prior art disclose or suggest such a die assembly, which has a pressure cylinder to both move and lock the adjustable post to form such an efficient die assembly as that claimed.

Also, at best, the disclosure of Wallis would merely provide a cylinder to move the vertically-movable knife 12' of Kirsten. Wallis does not disclose or suggest replacing Kirsten's bolts 23 and screws 15, which are not moved during the cutting process. Thus, only possible proper resulting combination of Kirsten and Wallis does not satisfy the claim. Accordingly, claim 5 should be allowable by virtue of its dependence on claim 1 and for its recitation of additional patentable subject matter.

Claim 7 has been rewritten into independent form to include all the limitations of original claim 1. With respect to claim 7, the Office Action states that a second pressure cylinder is obvious since it is merely a duplication of parts. However, as set forth above, Wallis can, at best, provide one cylinder to the movable knife 12'. There is no motivation to provide a cylinder to Kirsten to replace bolts 23 and screws 15. Providing cylinders for bolts 23 and screws 15 is not disclosed or suggested in the prior art, including Wallis. Also, Wallis does not disclose or suggest moving an adjustable post with pressure cylinders as claimed.

Instead, Wallis merely discloses using pressure cylinders to move an impacting device during the cutting procedure, which is the equivalent of the movable knife 12` in Kirsten. None of the prior art, including Wallis, discloses or suggests using pressure cylinders to move an adjustable post that is stationary during cutting, as claimed. Accordingly, claim 7 is allowable over the prior art of record.

Claim 13 is rejected under 35 U.S.C. §103(a) over the combination of Kirsten in view of Mori, U.S. Patent No. 5,671,647. This rejection is respectfully traversed.

Mori discloses a paper cutter that slides between support members 15. Inasmuch as it is not evident how support members 15 could be provided to Kirsten, there is no motivation to do so. At best, Mori suggests placing stops at either side of the cutting device to limit its path *during cutting*. Thus, at best, Mori suggests providing stops at either end of the range of movement of the vertically-movable knife 12` of Kirsten since the movable knife 12` corresponds, to some extent, to the cutting blade in slider 16 of Mori. However, there is no motivation for providing stops such as support members 15 to a device such as the shear knife 12 of Kirsten since shear knife 12 is stationary during the cutting process and since the support members 15 of Mori act as stops to limit the movement of a device while cutting moving, as in slider 16 of Mori.

Further, there is no motivation for “picking” and “choosing” among the various elements of Kirsten and Mori, to the exclusion of other elements, to arrive at the claimed combination. See, *In re Cam*, 172 USPQ 298, 301 (CCPA 1972). That is, Mori is directed to a paper cutter having a rail 13 and a slider 16 which is movably fitted on the rail 13. Stopper portions 151 are provided on the rail 13 for preventing the slider 16 from coming out of the rail 13. The Mori reference is not concerned with die assemblies and an adjusting post thereof that is movable between first and second cutting positions. The proposed combination in the Office Action is merely the result of picking and choosing from unrelated arts to arrive at the claimed combination without motivation to do so. Claim 13 has been rewritten in independent form, and withdrawal of the rejection of claim 13 is respectfully requested.

Claim 14 is rejected under 35 U.S.C. §103(a) over the combination of Kirsten in view of Graham, U.S. Patent No. 5,383,381. This rejection is respectfully traversed.

The Office Action relies on Graham to disclose a gib. This does not make up for the deficiencies noted above with respect to Kirsten. Accordingly, claim 14 should be allowable by virtue of its dependence on claim 1 and additionally allowable for its recitation of additional patentable subject matter.

Claims 1-4, 8-12, and 18-20 are rejected under 35 U.S.C. §103(a) over Kirsten in view of Chazen, U.S. Patent No. 3,645,159. This rejection is respectfully traversed.

The Office Action relies on Chazen to disclose an alligator shear that teaches an impact position and an elevated position. This does not make up for the deficiencies noted above with respect to Kirsten. Accordingly, withdrawal of the rejection of independent claims 1 and 18 is respectfully requested.

Claims 2-4 and 8-12 should be allowable by virtue of their dependence on claim 1 and for their recitation of additional patentable subject matter, and claims 19 and 20 should be allowable by virtue of their dependence on claim 18 and for their recitation of additional patentable subject matter.

Claims 5, 6 and 7 are rejected under 35 U.S.C. §103(a) over the combination of Kirsten and Chazen, and further in view of Wallis. This rejection is respectfully traversed.

The Office Action relies on Chazen to disclose an alligator shear that teaches an impact position and an elevated position. This does not make up for the deficiencies noted above with respect to Kirsten and Wallis. Accordingly, claim 6 should be allowable by virtue of its dependence on claim 1 and for its recitation of additional patentable subject matter. Claim 7 has been rewritten into independent form and should be allowable for at least the reasons of allowability noted above.

Claim 13 is rejected under 35 U.S.C. §103(a) over the combination of Kirsten and Chazen, and further in view of Mori. This rejection is respectfully traversed.

The Office Action relies on Chazen to disclose an alligator shear that teaches an impact position and an elevated position. This does not make up for the deficiencies noted above with respect to Kirsten and Mori. Claim 13 has been rewritten in independent form and should be allowable for at least the reasons of allowability noted above.

Claim 14 is rejected under 35 U.S.C. §103(a) over the combination of Kirsten and Chazen, and further in view of Graham. This rejection is respectfully traversed.

The Office Action relies on Chazen to disclose an alligator shear that teaches an impact position and an elevated position. This does not make up for the deficiencies noted above with respect to Kirsten and Graham. Accordingly, claim 14 should be allowable by virtue of its dependence on claim 1 and for its recitation of additional patentable subject matter.

New claims 21 and 22 have been added to recite additional aspects of an embodiment of the invention.

All objections and rejections have been addressed. It is respectfully submitted that the present application is now in condition for allowance, and a notice to that effect is earnestly solicited.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Should there be any questions or concerns regarding this Application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,

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